

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

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FILE: B-215427

DATE: December 3, 1984

MATTER OF: Caelter Industries, Inc.

DIGEST:

1. GAO will deny a protest alleging that only one manufacturer can meet specifications for snow removal units when the record shows that more than one manufacturer can meet the specifications, which are performance and design-type and require a standard commercial product, rather than a particular brand of equipment.
2. Agency's specifications for multi-purpose snow removal units are not unduly restrictive of competition where the agency presents a reasonable explanation as to why such units are necessary to meet its minimum needs and the protester fails to show that the restrictions are unreasonable.

Caelter Industries, Inc., protests as unduly restrictive the specifications for multi-purpose snow removal units set forth in request for proposals (RFP) No. FD2060-83-96324, issued by the Warner Robins Air Logistics Center, Robins Air Force Base, Georgia. Caelter contends that only one manufacturer, Schmidt Engineering and Equipment Co., Ltd., can meet the Air Force's requirements, so that they limit competition and exceed the government's minimum needs.

We deny the protest.

The RFP, issued to 19 firms, initially called for four diesel engine driven, multi-purpose snow removal units with attachments (blower, cutter, reversible plow, and multi-section plow) capable of cutting, blowing, and plowing snow. Three additional units were added by amendment. The protester originally complained that the RFP called for Schmidt equipment and that as a result, Caelter and other manufacturers were prevented from competing. In its comments on the Air Force report, Caelter specifically alleges that a requirement for two blowers--one for use in

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fine snow and the other for compacted snow--can only be met by Schmidt.

The record simply does not support these allegations. The specifications are performance and design-type, and while they require a standard commercial product (which may be modified), they do not identify Schmidt's or any other manufacturer's equipment by brand name. Moreover, at least one manufacturer in addition to Schmidt responded to the solicitation and apparently is in line for award.

As for Caelter's allegation that the specifications exceed the Air Force's minimum needs, where a protester challenges specifications as being unduly restrictive, the procuring agency bears the burden of presenting prima facie support for its position that the restrictions are necessary. Deere & Company, B-212203, Oct. 12, 1983, 83-2 CPD ¶ 456. If such support is submitted, the burden of proof then shifts to the protester to show that the specifications in dispute are clearly unreasonable. Id. The contracting agency's initial burden reflects its statutory obligation to create specifications that permit free and full competition and are consistent with the agency's actual needs, 10 U.S.C. § 2305(b) (1982), while the protester's stems from the fact that the determination of the government's minimum needs and the best method of accommodating those needs are primarily matters of agency discretion. See Bataco Industries, Inc., B-212847, Feb. 13, 1984, 84-1 CPD ¶ 179.

Here, the Air Force has offered reasonable explanations of its need for the specifications at issue. The agency points out that in January 1979 the Air Force Engineering Technology office initiated a study to determine the advantages and disadvantages of state-of-the-art snow removal equipment as compared to six different types of equipment then being employed. The study concluded that a multi-purpose unit, capable of several functions through the use of interchangeable operating heads, would be most satisfactory and economical for runway snow removal. It also concluded that the use of such units could reduce the quantity of snow removal equipment maintained by the Air Force. According to the Air Force, the multi-purpose snow removal unit therefore represents its minimum needs.

The protester has not shown that the above justification for the specification is unreasonable or exceeds the government's minimum needs. Therefore, we deny the protest. See Apex International Management Services, Inc., B-212220.2, May 30, 1984, 84-1 CPD ¶ 584.

for Milton J. Fowler
Comptroller General
of the United States